

REMARKS

Claims 49-59, 61, 62 and 66-71 are pending in the present application. Claims 1-48, 64 and 65 have been withdrawn from consideration. By this Response, claims 49-51, 61 and 62 have been amended and claims 66-71 are new. Reconsideration and allowance are respectfully requested.

Claims 49-59, 61 and 62 have been rejected under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification. Applicants traverse this rejection and respectfully assert that the rejected claims are enabled.

With specific regard to claims 49 and 56-59, the physical structure of the claimed label as well as the associated properties are conventional and well documented in the medical industry. The specification clearly states that "incorporation of the integrated circuits into each different implement needs to be individualized to that implement and this can be done by those of skill in the art" (see Specification page 9, lines 21-23). Indeed, encapsulation of the integrated in plastic is given as a specific example with regard to surgical implement applications to achieve heat, shock and water resistance as well as flexibility. Applicants assert that one skilled in the art would also be able to make and/or use the claimed invention with regard to achieving heat, shock and water resistance in labels. For at least the above reasons, Applicants request that the Examiner withdraw the instant rejection.

Claims 61 and 62 have been rejected under 35 U.S.C. §112, 2nd paragraph as being indefinite. Applicants have amended the claims to provide sufficient antecedent basis in accordance with the Examiner's suggestions. As such, Applicants request that the Examiner withdraw the instant rejection.

Claims 49-55, 59 and 61 have been rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,335,907 to Momich et al. Applicants traverse this rejection and respectfully assert that Momich fails to disclose all of the all claimed limitations.

With specific regard to claim 49, Momich does not describe a label having an integrated circuit that transmits an RFID in response to an RF signal as claimed. Rather, Momich generally describes a contactless read/write module and provides no

specifics as to how information is transferred between the integrated circuit 14 and the read/write module. In this regard, Applicants point out that newly added claims 66-68 further define over Momich by reciting specific components that can be used in transmitting an RFID. Indeed, the term "RFID" is mentioned nowhere in the reference. Claims 50-55, 59 and 61 depend from claim 49 and therefore also recite patentable subject matter. Accordingly, Applicants request that the Examiner withdraw the instant rejection.

Claims 56-58 and 62 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Momich. Applicants traverse this rejection and respectfully assert that Momich does not satisfy a *prima facie* case of obviousness because all of the claimed limitations are not taught or suggested by the reference.

Specifically, the rejected claims depend from claim 49, which provides for transmitting an RFID in response to an RF signal as discussed above. Furthermore, there is no motivation to modify the contactless system of Momich to achieve the claimed RFID approach because the reference focuses on specialized readers such as device 20 shown in FIG. 18 of Momich. As such, Applicants request that the Examiner withdraw the instant rejection.

Applicants would also like to direct the Examiner's attention to newly added claims 69-71, which further define over Momich by reciting notification of a sensor system as to a conflict between a patient and a medical based on a proximity between the integrated circuit and the sensor system. Applicants point out that Momich is directed to systems that prompt for the use of medication, and that the reference completely disregards the potential benefits that can be achieved by harnessing knowledge about the proximity between patients and medical products to enhance safety. Accordingly, Applicants request that the Examiner allow claims 69-71.

CONCLUSIONS

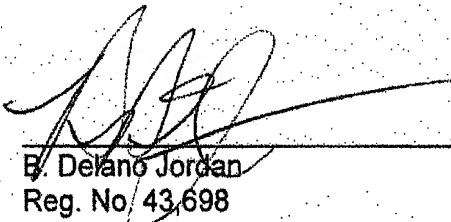
Applicants assert that all claims are in condition for allowance. Applicants respectfully request the Examiner to pass this case to issue at the Examiner's earliest possible convenience.

The Office is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 11-0600.

Applicants would like to direct the Examiner's attention to the Associate Power of Attorney accompanying this Response. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (202) 220-4275.

Respectfully submitted,

Date: April 28, 2003


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